THE HONOURABLE SRI JUSTICE RAMESH RANGANATHAN

W.P. NO. 3925 of 2004

DATED: 29-08-2007

Between:-

Surapaneni Rathaiah Chowdari s/o Ratnagiri Rao, Chairman, Sri Chennakeshava Swamy Vari Temple, R/o Pasumarru village, Pamarru Mandal, Krishna District.

...PETITIONER

And

The Assistant Commissioner, Endowments Department, Viajyawada, Krishna District.

...RESPONDENT.

THE HONOURABLE SRI JUSTICE RAMESH RANGANATHAN

W.P. NO. 3925 of 2004

O R D E R

The short question which arises for consideration in this writ petition is as to the jurisdiction of the Assistant Commissioner of Endowments in deleting a group of temples, including Sri Chennakeshava Swamy Vari Temple, Pasumarru village, Pamaruu Mandal, Krishna District, from the charge of Sri S.K. Kishore, Person-in-management and in handing over to Sri S. Ravindra Prasad.

The petitioner, hitherto a trustee of Sri Chennakeshava Swamy Vari Temple, has filed this writ petition contending that Sri A. Venkat Rao was earlier working as Person-in-Management to discharge the functions of the Executive Officer, that by virtue of the powers conferred upon the Commissioner of Endowments under Section 29 (5) (d), Sri S.K. Kishore was appointed as the Person-in-Management and that the said Person-in-Management had conducted a public auction of the lands of the temple and had obtained Rs. 90,300/- as income as compared to the earlier income of Rs. 18,000/-. Petitioner would contend that, since the power to delete certain

temples from the charge of the Executive Officer was vested only with the Commissioner of Endowments under Section 29 (5) (d) of the Endowments Act, the Assistant Commissioner of Endowments has no jurisdiction to pass the impugned order. Petitioner would contend that deletion of a group temples from the Person-in-Management and keeping it in the charge of some other Executive Officer was not only against the interest of the temple but also against public interest.

The order impugned in this writ petition is the order passed by the Assistant Commissioner in his proceedings dated 30-12-2003 and 13-02-2004. In his proceedings dated 30-12-2003 the Assistant Commissioner of Endowments noted that the villagers of Pasumarru and Balliparru villages had brought to his notice that Sri S.K. Kishore, Person-in-Management of the group temples, was not attending temple duties regularly, was not maintaining institutional funds properly, that another Officer was appointed in his place for proper administration of the institutions and that on consideration of the complaints made by the villagers and in the interest of better administration of the group temples, additional charge of the group temples were deleted from the additional charge of Sri S.K. Kishore, Person-in-Management and was being kept under the additional charge of Sri S. Ravindra Prasad, Executive Officer until further orders. In his proceedings dated 13-02-2004 certain temples, which were under the additional charge of Sri S.K. Kishore, Person-in-Management, were tagged to Sri S. Ravindra Prasad, Executive

Officer for better management of the institutions as several complaints had been received against the then person-in-management. It is necessary to note that, while the charge of Sri Chennakesava Swamy Vari Temple, Pasumarru village, Pamarru Mandal was handed over to the additional charge of Sri S. Ravindra Prasad vide his proceedings dated 30-12-2003, the proceedings dated 13-02-2004 relates to certain other temples.

The sole contention of Sri N. Guru Gopal, learned counsel for the petitioner, is that the impugned orders passed by the Assistant Commissioner were without jurisdiction since Section 29 (5) (d) of the Endowments Act only enables the Commissioner to delete certain temples from the charge of one Executive Officer and to place it in another.

Section 29 of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 (Act No. 30 of 1987) relates to the appointment and duties of Executive Officer. Under sub-section 5 (d) thereof, where there is no Executive Officer in respect of any charitable or religious institution or endowment, the trustee or the Chairman of the Board of trustees or any employee of any institution or endowment duly authorized by the Commissioner in this behalf shall exercise the powers, perform the functions and discharge the duties of an Executive Officer. Section 8 prescribes the powers and functions of the Commissioner and Additional Commissioner and, under sub-section (1) thereof, subject to the other provisions of this Act, the

administration of all Charitable and Hindu Religious Institutions and Endowments shall be under the general superintendence and control of the Commissioner and such superintendence and control shall include the power to pass any order which may be deemed necessary to ensure that such institutions and endowments are properly administered and their income is duly appropriated for the purposes for which they were found to exist. Under sub-section (5) the Commissioner may delegate to an Assistant Commissioner any of the powers conferred on or functions entrusted to the Commissioner by or under this Act except the powers and functions of the Commissioner under sub-section (1) of Sections 6, 15, 49, 51, 66, 90, 92 and 132 in respect of any institution or endowment in the sub-division in charge of the Assistant Commissioner subject to such restrictions and control as the Government may, by general or special order, lay down and subject also to such limitations and conditions if any, as may be specified in the order of delegation. It is necessary to note that Section 29 of the Act is not among those excepted clauses referred to in sub-section (5) of Section 8 of the Act.

No counter affidavit is filed by the respondents. However, the learned Government Pleader for Endowments would place before this Court a copy of G.O. Ms. No. 1029 dated 18-10-1989 whereunder the Government had empowered the Assistant Commissioners to exercise the powers and perform the functions of the Commissioner as are delegated under various sections specified in the table thereunder. It

is necessary to note that Section 29 of the Act is not among the sections referred to in the table. Learned Government Pleader would also place before this Court a copy of the proceedings of the Commissioner of Endowments dated 11-11-1998 whereunder, pursuant to G.O. Ms. No. 1029 dated 18-10-1989, the Commissioner delegated certain powers and functions of the Assistant Commissioner as are referred to in Appendix-II to the said proceedings. While a copy of the said Appendix-II is not made available for perusal, learned Government Pleader would, however, contended that

Annexure-XIV the job chart of Assistant Commissioners of the Endowments Department are the matters delegated to the Assistant Commissioner. Learned Government Pleader would place reliance on clause 9 whereunder the Assistant Commissioner has been empowered to transfer the office holder and servants of the Charitable or Religious Institutions or Endowment in respect of Section 6 (c) institutions in his jurisdiction. Learned Government Pleader would contend that in view of the fact that deletion of certain temples from the jurisdiction of the erstwhile Person-in-Management to the new Person-in-Management was only to redress the grievance of the villagers concerned and was an administrative exercise and as Sri Chennakeshava Swamy Vari Temple is an institution under Sec. 6(c) of the Act, which comes under the jurisdiction of the Assistant Commissioner, the Assistant Commissioner has the power to transfer the office holder or to delete certain temples in their jurisdiction and

confer it on another. While these submissions are now made across the bar, the fact remains that in the absence of a counter-affidavit being filed, the petitioner is in no position to rebut these contentions. It is necessary to also note that this Court, by order in W.P.M.P.No. 5176 of 2004 dated 04-03-2004, had granted interim suspension of the proceedings of the Assistant Commissioner dated 30-12-2003 and 13-02-2004 pending W.P. No. 3925 of 2004. Ends of justice would be met if the Commissioner of Endowments examines the matter and, on referring to the specific Government orders or powers of delegation, passes a reasoned order as to whether or not the powers under Section 29 (5) (d) in respect of Section 6(c) temples had then been delegated to the Assistant Commissioner of Endowments. Needless to state that, even if such a power is not delegated it is always open to the Commissioner to exercise his powers of general superintendence under Section 8 and pass necessary orders in this regard. Suffice to hold that till an appropriate decision is taken by the Commissioner in this regard the interim orders passed by this Court earlier shall continue.

The writ petition is disposed of accordingly. No costs.

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RAMESH RANGANATHAN, J

Dated: 29-08-2007
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